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of the State of California
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4 California Department of Justice
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6 Facsimile: (213) 897-2804

7 Attorneys for Complainant

8
9 **BEFORE THE**
BOARD OF PHARMACY
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

12 SHERRY LYNN HARGIS
620 East North Ave.
13 Lompoc, CA 93436

14 Pharmacy Technician License No. TCH 10330

15 Respondent.

Case No. 2835

OAH No. L-2006080029

DEFAULT DECISION
AND ORDER

[Gov. Code, §11520]

16 FINDINGS OF FACT

17 1. On or about May 2, 2005, Complainant Patricia F. Harris, in her official
18 capacity as the Executive Officer of the Board of Pharmacy, filed Accusation No. 2835 against
19 SHERRY LYNN HARGIS (Respondent) before the Board of Pharmacy, Department of
20 Consumer Affairs, State of California ("Board").

21 2. On or about October 27, 1993, the (Board) issued Pharmacy Technician
22 License No. TCH 10330 to Respondent. The Pharmacy Technician License was in full force
23 and effect at all times relevant to the charges brought herein and will expire on May 31, 2007,
24 unless renewed.

25 3. On or about June 3, 2005, Anna Carpenter, an employee of the Department
26 of Justice, served by Certified and First Class Mail a copy of the Accusation No. 2835, Statement
27 to Respondent, Notice of Defense, Request for Discovery, and Government Code sections
28

1 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board, which was and
2 is 620 East North Ave, Lompoc, CA 93436. A copy of the Accusation, the related documents,
3 and Declaration of Service are attached as exhibit A, and are incorporated herein by reference.

4 4. Service of the Accusation was effective as a matter of law under the
5 provisions of Government Code section 11505, subdivision (c).

6 5. On or about June 23, 2005, Respondent signed and returned a Notice of
7 Defense, requesting a hearing in this matter. Respondent included a mailing address in the
8 notice of defense of 4035 Rigel Avenue, Lompoc, CA 93436. On or about December 27, 2005,
9 Complainant, filed a First Amended Accusation against Respondent. On or about February 10,
10 2006, Louise Steinberg, an employee of the Department of Justice, served by Certified and First
11 Class Mail a copy of the First Amended Accusation No. 2835, Supplemental Statement to
12 Respondent, Request for Discovery, and Government Code sections 11507.5, 11507.6, and
13 11507.7 to both Respondent's address of record with the Board and the address provided on
14 Respondent's notice of defense. On or about September 8, 2006, Anna Carpenter, an employee
15 of the Department of Justice, served by Certified and First Class Mail at Respondent's address of
16 record and the address provided on respondent's notice of defense, a Notice of Hearing which
17 informed her that an administrative hearing in this matter was scheduled for September 28, 2006
18 at a specified time and location in Lompoc, California. Respondent failed to appear at that
19 hearing. On or about September 29, 2006 the Department of Justice received by United Parcel
20 Service Next Day Air a Withdrawal of Notice of Defense signed by respondent. A copy of
21 Respondent's Notice of Defense, First Amended Accusation and related documents with
22 Declaration of Service, the Notice of Hearing with Declaration of Service, and Respondent's
23 Withdrawal of Notice of Defense are attached hereto as exhibit B, and are incorporated herein by
24 reference.

25 6. Government Code section 11506 states, in pertinent part:

26 "(c) The respondent shall be entitled to a hearing on the merits if the respondent
27 files a notice of defense, and the notice shall be deemed a specific denial of all parts of the
28 accusation not expressly admitted. Failure to file a notice of defense shall constitute a waiver of

1 respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing."

2 7. California Government Code section 11520 states, in pertinent part:

3 "(a) If the respondent either fails to file a notice of defense or to appear at the
4 hearing, the agency may take action based upon the respondent's express admissions or
5 upon other evidence and affidavits may be used as evidence without any notice to
6 respondent."

7 8. Pursuant to its authority under Government Code section 11520, the Board
8 finds Respondent is in default. The Board will take action without further hearing and, based on
9 Respondent's express admissions by way of default and the evidence before it, contained in
10 exhibits A and B finds that the allegations in Accusation No. 2835 are true.

11 9. The total costs for investigation and enforcement are \$13,394.00 as of
12 September 27, 2006.

13 DETERMINATION OF ISSUES

14 1. Based on the foregoing findings of fact, Respondent SHERRY LYNN
15 HARGIS has subjected her Pharmacy Technician License No. TCH 10330 to discipline.

16 2. A copy of the First Amended Accusation and the related documents and
17 Declaration of Service, Notice of Defense, Notice of Hearing, and withdrawal of Notice of
18 Defense and other related documents are attached as Exhibits A and B as more fully described
19 above.

20 3. The agency has jurisdiction to adjudicate this case by default.

21 4. The Board is authorized to revoke Respondent's Pharmacy Technician
22 License for acts of unprofessional conduct in violation of Section 4300 of the Code based upon
23 the following violations alleged in the First Amended Accusation:

24 a. Acts involving moral turpitude, dishonesty, fraud or corruption in
25 violation of Sections 4301, subdivisions (f)(g) and (h) of the Code.

26 b. Fraud, possession and furnishing a controlled substance in violation of
27 Section 4301, subdivision (j) of the Code.

28 c. Preparing medications and intravenous for patients while under the

1 influence of a controlled substance in violation of Sections 4327 and 4301(j) of the Code.

2 ORDER

3 IT IS SO ORDERED that Pharmacy Technician License No. TCH 10330,
4 heretofore issued to Respondent SHERRY LYNN HARGIS, is revoked.

5 Pursuant to Government Code section 11520, subdivision (c), Respondent may
6 serve a written motion requesting that the Decision be vacated and stating the grounds relied on
7 within seven (7) days after service of the Decision on Respondent. The agency in its discretion
8 may vacate the Decision and grant a hearing on a showing of good cause, as defined in the
9 statute.

10 This Decision shall become effective on March 9, 2007.

11 It is so ORDERED February 7, 2007

12
13 BOARD OF PHARMACY
14 DEPARTMENT OF CONSUMER AFFAIRS
15 STATE OF CALIFORNIA

16 60173106.wpd

17 DOJ docket number: LA2004602586

18 By



19 WILLIAM POWERS

20 Board President

21 Attachments:

22 Exhibit A: Accusation, Related Documents, and Declaration of Service
23 Exhibit B: Notice of Defense, First Amended Accusation, Related Documents, Notice of
24 Hearing, Withdrawal of Notice of Defense and Declarations of Service for
25 documents
26
27
28

BILL LOCKYER, Attorney General
of the State of California
MICHAEL R. GRANEN, State Bar No. 63350
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Attorneys for Complainant

**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 2835

SHERRY LYNN HARGIS

STATEMENT TO RESPONDENT

[Gov. Code §§ 11504, 11505(b)]

Respondent.

TO RESPONDENT:

Enclosed is a copy of the Accusation that has been filed with the Board of
Pharmacy of the Department of Consumer Affairs (Board), and which is hereby served on you.

Unless a written request for a hearing signed by you or on your behalf is delivered
or mailed to the Board, represented by Deputy Attorney General Michael R. Granen, within
fifteen (15) days after a copy of the Accusation was personally served on you or mailed to you,
you will be deemed to have waived your right to a hearing in this matter and the Board may
proceed upon the Accusation without a hearing and may take action thereon as provided by law.

The request for hearing may be made by delivering or mailing one of the enclosed
forms entitled "Notice of Defense," or by delivering or mailing a Notice of Defense as provided
in section 11506 of the Government Code, to

**Michael R. Granen
Deputy Attorney General
Ronald Reagan Building
300 South Spring Street, Suite 1702
Los Angeles, CA 90013**

1 You may, but need not, be represented by counsel at any or all stages of these
2 proceedings.

3 The enclosed Notice of Defense, if signed and filed with the Board, shall be
4 deemed a specific denial of all parts of the Accusation, but you will not be permitted to raise any
5 objection to the form of the Accusation unless you file a further Notice of Defense as provided in
6 section 11506 of the Government Code within fifteen (15) days after service of the Accusation
7 on you.

8 If you file any Notice of Defense within the time permitted, a hearing will be held
9 on the charges made in the Accusation.

10 The hearing may be postponed for good cause. If you have good cause, you are
11 obliged to notify the Office of Administrative Hearings, 320 West Fourth Street, Suite 630, Los
12 Angeles, California 90013, within ten (10) working days after you discover the good cause.
13 Failure to notify the Office of Administrative Hearings within ten (10) days will deprive you of a
14 postponement.

15 Copies of sections 11507.5, 11507.6, and 11507.7 of the Government Code are
16 enclosed.

17 If you desire the names and addresses of witnesses or an opportunity to inspect
18 and copy the items mentioned in section 11507.6 of the Government Code in the possession,
19 custody or control of the Board you may send a Request for Discovery to the above designated
20 Deputy Attorney General.

21 **NOTICE REGARDING STIPULATED SETTLEMENTS**

22 It may be possible to avoid the time, expense and uncertainties involved in an
23 administrative hearing by disposing of this matter through a stipulated settlement. A stipulated
24 settlement is a binding written agreement between you and the government regarding the matters
25 charged and the discipline to be imposed. Such a stipulation would have to be approved by the
26 Board of Pharmacy but, once approved, it would be incorporated into a final order.

27 Any stipulation must be consistent with the Board's established disciplinary
28 guidelines; however, all matters in mitigation or aggravation will be considered. A copy of the

1 Board's Disciplinary Guidelines will be provided to you on your written request to the state
2 agency bringing this action.

3 If you are interested in pursuing this alternative to a formal administrative hearing,
4 or if you have any questions, you or your attorney should contact Deputy Attorney General
5 Michael R. Granen at the earliest opportunity.

6 *****

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8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 2835

12 SHERRY LYNN HARGIS
620 East North Ave.
13 Lompoc, CA 93436

OAH No.

A C C U S A T I O N

14 Pharmacy Technician License No. TCH 10330

15 Respondent.

16
17 Complainant alleges:

18 PARTIES

19 1. Patricia F. Harris (Complainant) brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Pharmacy (Board), Department of
21 Consumer Affairs.

22 2. On or about October 27, 1993, the Board issued Pharmacy Technician
23 License No. TCH 10330 to Sherry Lynn Hargis (Respondent). The license was in full force and
24 effect at all times relevant to the charges brought herein and will expire on May 31, 2005, unless
25 renewed.

26 JURISDICTION

27 3. This Accusation is brought before the Board the authority of the following
28 laws. All section references are to the Business and Professions Code unless otherwise indicated.

1 4. Section 4300 of the Code permits the Board to take disciplinary action to
2 suspend or revoke a license.

3 5. Section 4301 of the Code states that the Board shall take action against any
4 holder of a license who is guilty of unprofessional conduct or whose license has been procured
5 by fraud or misrepresentation or issued by mistake. Unprofessional conduct shall include, but is
6 not limited to, any of the following:

7

8 "(f) The commission of any act involving moral turpitude, dishonesty, fraud,
9 deceit, or corruption, whether the act is committed in the course of relations as a licensee or
10 otherwise, and whether the act is a felony or misdemeanor or not.

11

12 "(h) provides that unprofessional conduct shall include the administering to
13 oneself, of any controlled substance, or the use of any dangerous drug or alcohol beverages to the
14 extend or in a manner as to be dangerous or injurious to oneself, to a person holding a license
15 under this chapter, or to any other person or to the public, or the extent that the use impairs the
16 ability of the person to conduct with safety to the public the practice authorized by the license.

17

18 "(j) The violation of any of the statutes of this state or of the United States
19 regulating controlled substances and dangerous drugs.

20

21 "(o) Violating or attempting to violate, directly or indirectly, or assisting in or
22 abetting the violation of or conspiring to violate any provision or term of this chapter or of the
23 applicable federal and state laws and regulations governing pharmacy, including regulations
24 established by the board.

25 "(p) Actions or conduct that would have warranted denial of a license."

26 6. Section 4327 of the Code states that any person who, while on duty, sells,
27 dispenses or compounds any drug while under the influence of any dangerous drug or alcoholic
28 beverages shall be guilty of a misdemeanor.

7. Section 118(b) of the Code provides that the suspension, expiration, or forfeiture by operation of law of a license issued by a Board in the department, or its suspension, forfeiture, or cancellation by order of the Board or by order of a court of law, or its surrender without the written consent of the Board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated.

8. Health & Safety Code section 11170 states that no person shall prescribe, administer, or furnish a controlled substance for herself.

9. Section 125.3 of the Code provides, in part, that the Board may request the administrative law judge to direct any licensee found to have committed a violation of the licensing act, to pay the Board a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

CONTROLLED SUBSTANCES

10. Cocaine is a schedule II controlled substance as listed in Health and Safety Code section 11055(a). It is an alkaloid that affects the central nervous system. Cocaine produces one of the highest degrees of psychic dependence seen among recreationally abused drugs that produces an addictive syndrome.

11. Morphine, an Opium derivative, (generic MS Contin) is a dangerous drugs as defined by section 4022 of the Code and is a Schedule II controlled substance as designated by Health and Safety Code section 11055(b)(1)(M).

FIRST CAUSE FOR DISCIPLINE

(Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit or Corruption)

12. Respondent has subjected her license to discipline pursuant to section 4300 of the Code for unprofessional conduct as defined in sections 4301(f) and (g) of the Code as follows:

a. On July 13, 2004, while Respondent was employed as a pharmacy technician at Lompoc District Hospital Pharmacy, Respondent was requested to undergo a urine toxicology screen.

/ / /

1 b. On July 23, 2004, Respondent's urine toxicology results were received.
2 The results were positive for Cocaine, benzodiazepine and opiates.

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Fraud, Possession and Furnishing a Controlled Substances)**

5 13. Respondent has subjected her license to discipline pursuant to section
6 4300 of the Code for unprofessional conduct as defined in section 4301(j) of the Code in
7 conjunction with Health and Safety Code sections 11170 in that Respondent fraudulently
8 possessed and furnished controlled substances to herself without a prescription as set forth above
9 in paragraph 12.

10 **THIRD CAUSE FOR DISCIPLINE**

11 **(Fraud, Possession and Furnishing a Controlled Substances)**

12 14. Respondent has subjected her license to discipline pursuant to section
13 4300 of the Code for unprofessional conduct as defined in section 4301(j) of the Code in
14 violation with 4327 of the Code in that Respondent prepared medications and intravenous in
15 Lompoc Hospital District Hospital for patients, while she was under the influence of controlled
16 substances Cocaine and MS Contin.

17 **FOURTH CAUSE FOR DISCIPLINE**

18 **(Actions Warranting Denial of License)**

19 15. Respondent has subjected her license to discipline pursuant to section
20 4300 of the Code as defined in section 4301(p) of the Code for unprofessional conduct by
21 committing acts which would warrant denial of a license as described above in paragraph 12.

22 **FIFTH CAUSE FOR DISCIPLINE**

23 **(Violating the Pharmacy Law)**

24 16. Respondent has subjected her license to discipline pursuant to section
25 4300 of the Code as defined in section 4301(o) of the Code for unprofessional conduct for
26 violating Pharmacy Law as described above in paragraph 12.

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1. Revoking or suspending Pharmacy Technician License No. TCH 10330, issued to Sherry Lynn Hargis.
2. Ordering Sherry Lynn Hargis to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
3. Taking such other and further action as deemed necessary and proper.

P. F. Harris
 PATRICIA F. HARRIS
 Executive Officer
 Board of Pharmacy
 Department of Consumer Affairs
 State of California
 Complainant

BILL LOCKYER, Attorney General
of the State of California
MICHAEL R. GRANEN, State Bar No. 63350
Deputy Attorney General
California Department of Justice
300 So. Spring Street, Suite 1702
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Telephone: (213) 897-2537
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Attorneys for Complainant

**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 2835

SHERRY LYNN HARGIS

REQUEST FOR DISCOVERY

Respondent.

[Gov. Code § 11507.6]

TO RESPONDENT:

Under section 11507.6 of the Government Code of the State of California, parties to an administrative hearing, including the Complainant, are entitled to certain information concerning the opposing party's case. A copy of the provisions of section 11507.6 of the Government Code concerning such rights is included among the papers served.

PURSUANT TO SECTION 11507.6 OF THE GOVERNMENT CODE, YOU ARE HEREBY REQUESTED TO:

1. Provide the names and addresses of witnesses to the extent known to the Respondent, including, but not limited to, those intended to be called to testify at the hearing, and
2. Provide an opportunity for the Complainant to inspect and make a copy of any of the following in the possession or custody or under control of the Respondent:
 - a. A statement of a person, other than the Respondent, named in the initial administrative pleading, or in any additional pleading, when it is claimed that the act or omission of the Respondent as to this person is the basis for the administrative proceeding;

1 b. A statement pertaining to the subject matter of the proceeding made by any
2 party to another party or persons;

3 c. Statements of witnesses then proposed to be called by the Respondent and
4 of other persons having personal knowledge of the acts, omissions or events which are the
5 basis for the proceeding, not included in (a) or (b) above;

6 d. All writings, including but not limited to reports of mental, physical and
7 blood examinations and things which the Respondent now proposes to offer in evidence;

8 e. Any other writing or thing which is relevant and which would be
9 admissible in evidence, including but not limited to, any patient or hospital records
10 pertaining to the persons named in the pleading;

11 f. Investigative reports made by or on behalf of the Respondent pertaining to
12 the subject matter of the proceeding, to the extent that these reports (1) contain the names
13 and addresses of witnesses or of persons having personal knowledge of the acts,
14 omissions or events which are the basis for the proceeding, or (2) reflect matters
15 perceived by the investigator in the course of his or her investigation, or (3) contain or
16 include by attachment any statement or writing described in (a) to (e), inclusive, or
17 summary thereof.

18 For the purpose of this Request for Discovery, "statements" include written
19 statements by the person, signed, or otherwise authenticated by him or her, stenographic,
20 mechanical, electrical or other recordings, or transcripts thereof, of oral statements by the person,
21 and written reports or summaries of these oral statements.

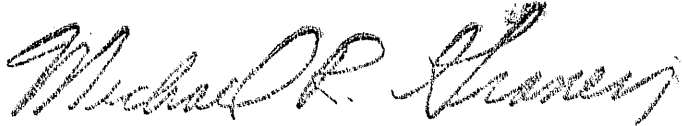
22 YOU ARE HEREBY FURTHER NOTIFIED that nothing in this Request for
23 Discovery should be deemed to authorize the inspection or copying of any writing or thing which
24 is privileged from disclosure by law or otherwise made confidential or protected as attorney's
25 work product.

26 Your response to this Request for Discovery should be directed to the undersigned
27 attorney for the Complainant at the address on the first page of this Request for Discovery **within**
28 **30 days after service** of the Accusation.

1 Failure without substantial justification to comply with this Request for Discovery
2 may subject the Respondent to sanctions pursuant to sections 11507.7 and 11455.10 to 11455.30
3 of the Government Code.

4 DATED: June 1, 2005

5 BILL LOCKYER, Attorney General
6 of the State of California

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8 MICHAEL R. GRANEN
9 Deputy Attorney General

10 Attorneys for Complainant

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COPY OF GOVERNMENT CODE SECTIONS 11507.5, 11507.6 AND 11507.7
PROVIDED PURSUANT TO GOVERNMENT CODE SECTIONS 11504 AND 11505

SECTION 11507.5: Exclusivity of discovery provisions

The provisions of Section 11507.6 provide the exclusive right to and method of discovery as to any proceeding governed by this chapter.

SECTION 11507.6: Request for discovery

After initiation of a proceeding in which a respondent or other party is entitled to a hearing on the merits, a party, upon written request made to another party, prior to the hearing and within 30 days after service by the agency of the initial pleading or within 15 days after the service of an additional pleading, is entitled to (1) obtain the names and addresses of witnesses to the extent known to the other party, including, but not limited to, those intended to be called to testify at the hearing, and (2) inspect and make a copy of any of the following in the possession or custody or under the control of the other party:

(a) A statement of a person, other than the respondent, named in the initial administrative pleading, or in any additional pleading, when it is claimed that the act or omission of the respondent as to this person is the basis for the administrative proceeding;

(b) A statement pertaining to the subject matter of the proceeding made by any party to another party or person;

(c) Statements of witnesses then proposed to be called by the party and of other persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, not included in (a) or (b) above;

(d) All writings, including, but not limited to, reports of mental, physical and blood examinations and things which the party then proposes to offer in evidence;

(e) Any other writing or thing which is relevant and which would be admissible in evidence;

(f) Investigative reports made by or on behalf of the agency or other party pertaining to the subject matter of the proceeding, to the extent that these reports (1) contain the names and addresses of witnesses or of persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, or (2) reflect matters perceived by the investigator in the course of his or her investigation, or (3) contain or include by attachment any statement or writing described in (a) to (e), inclusive, or summary thereof.

For the purpose of this section, "statements" include written statements by the person signed or otherwise authenticated by him or her, stenographic, mechanical, electrical or other recordings, or transcripts thereof, of oral statements by the person, and written reports or summaries of these oral statements.

Nothing in this section shall authorize the inspection or copying of any writing or thing which is privileged from disclosure by law or otherwise made confidential or protected as the attorney's work product.

SECTION 11507.7: Petition to compel discovery; Order; Sanctions

(a) Any party claiming the party's request for discovery pursuant to Section 11507.6 has not been complied with may serve and file with the administrative law judge a motion to compel discovery, naming as respondent the party refusing or failing to comply with Section 11507.6. The motion shall state facts showing the respondent party failed or refused to comply with Section 11507.6, a description of the matters sought to be discovered, the reason or reasons why the matter is discoverable under that section, that a reasonable and good faith attempt to contact the respondent for an informal resolution of the issue has been made, and the ground or grounds of respondent's refusal so far as known to the moving party.

(b) The motion shall be served upon respondent party and filed within 15 days after the respondent party first evidenced failure or refusal to comply with Section 11507.6 or within 30 days after request was made and the party has failed to reply to the request, or within another time provided by stipulation, whichever period is longer.

(c) The hearing on the motion to compel discovery shall be held within 15 days after the motion is made, or a later time that the administrative law judge may on the judge's own motion for good cause determine. The respondent party shall have the right to serve and file a written answer or other response to the motion before or at the time of the hearing.

(d) Where the matter sought to be discovered is under the custody or control of the respondent party and the respondent party asserts that the matter is not a discoverable matter under the provisions of Section 11507.6, or is privileged against disclosure under those provisions, the administrative law judge may order lodged with it matters provided in subdivision (b) of Section 915 of the Evidence Code and examine the matters in accordance with its provisions.

(e) The administrative law judge shall decide the case on the matters examined in camera, the papers filed by the parties, and such oral argument and additional evidence as the administrative law judge may allow.

(f) Unless otherwise stipulated by the parties, the administrative law judge shall no later than 15 days after the hearing make its order denying or granting the motion. The order shall be in writing setting forth the matters the moving party is entitled to discover under Section 11507.6. A copy of the order shall forthwith be served by mail by the administrative law judge upon the parties. Where the order grants the motion in whole or in part, the order shall not become effective until 10 days after the date the order is served. Where the order denies relief to the moving party, the order shall be effective on the date it is served.

DECLARATION OF SERVICE BY CERTIFIED MAIL AND FIRST CLASS MAIL

(Separate Mailings)

In the Matter of the Accusation Against: **SHERRY LYNN HARGIS**
Agency Case No. **2835**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

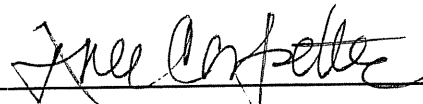
On June 3, 2005, I served the attached **Accusation, Statement to Respondent, Notice of Defense (2 copies), Request for Discovery and Discovery Statutes** by placing a true copy thereof enclosed in a sealed envelope as certified mail with postage thereon fully prepaid and return receipt requested, and another true copy of the **Accusation, Statement to Respondent, Notice of Defense (2 copies), Request for Discovery and Discovery Statutes** was enclosed in a second sealed envelope as first class mail with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at 300 So. Spring St., Los Angeles, CA 90013, addressed as follows:

Sherry Lynn Hargis
620 East North Ave.
Lompoc, CA 93436
Certified # 7001 0360 003 6750 1483

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on June 3, 2005, at Los Angeles, California.

ANNA CARPENTER

Typed Name



Signature

**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

SHERRY LYNN HARGIS

Respondent.

Case No. 2835

NOTICE OF DEFENSE

[Gov. Code §§ 11505 and 11506]

I, the undersigned Respondent in the above-entitled proceeding, hereby acknowledge receipt of a copy of the Accusation; Statement to Respondent; Government Code sections 11507.5, 11507.6 and 11507.7, Complainant's Request for Discovery; and two copies of a Notice of Defense.

I hereby request a hearing to permit me to present my defense to the charges contained in the Accusation.

DATED: 10-23-05

Respondent's Name

Respondent's Signature

Respondent's Mailing Address

City, State and Zip Code

Respondent's Telephone Number

Sherry Hargis
Sherry Hargis
4035 Rigel Ave.
Longport, Calif 93436
1-805-733-3235

Check appropriate box:

- ☐ I am represented by counsel, whose name, address and telephone number appear below:

Counsel's Name

Counsel's Mailing Address

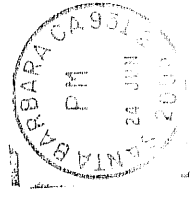
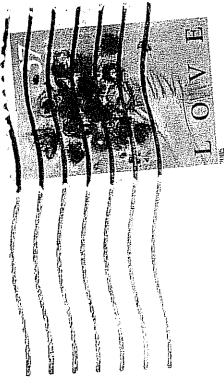
City, State and Zip Code

Counsel's Telephone Number

- ☒ I am not now represented by counsel. If and when counsel is retained, immediate notification of the attorney's name, address and telephone number will be filed with the Office of Administrative Hearing and a copy sent to counsel for Complainant so that counsel will be on record to receive legal notices, pleadings and other papers.

The agency taking the action described in the Accusation may have formulated guidelines to assist the administrative law judge in reaching an appropriate penalty. You may obtain a copy of the guidelines by requesting them from the agency in writing.

Sherry Harris
435 Rigel Ave,
Campoc, Calif 93736



Michael R. Graner
Deputy Attorney General
Ronald Reagan Building
300 South Spring Street Suite 1702
Los Angeles, CA 90013

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) **Sherry Hargis** B. Date of Delivery **6-16-05**
 C. Signature **Sherry Hargis** ☒ Agent ☐ Addressee
 D. Is delivery address different from item 1? ☐ Yes ☐ No

1. Article Addressed to: **Sherry Lynn Hargis**

HARGIS 934362036 1505 18 06/15/05
NOTIFY SENDER OF NEW ADDRESS
HARGIS
4035 RIGEL AVE
LOMPOC CA 93436-1418



for Merchandise

4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number (Copy from service label)

7001 0360 0003 6750 1483

PS Form 3811, July 1999

Domestic Return Receipt

102595-00-M-0952

U.S. Postal Service

CERTIFIED MAIL RECEIPT

(Domestic Mail Only; No Insurance Coverage Provided)

OFFICIAL USE

Postage \$

Sherry Lynn Hargis

620 East North Ave.

Lompoc, CA 93436

Certified # 7001 0360 003 6750 1483

Accusation Packet

Sent To

Street, Apt. No.;
or PO Box No.

City, State, ZIP+ 4

PS Form 3800, January 2001

See Reverse for Instructions

BILL LOCKYER, Attorney General
of the State of California
MICHAEL R. GRANEN, State Bar No. 63350
Deputy Attorney General
California Department of Justice
300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 897-2537
Facsimile: (213) 897-2804

Attorneys for Complainant

**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Amended Accusation Against:

Case No. 2835

SHERRY LYNN HARGIS

Respondent.

**SUPPLEMENTAL STATEMENT
TO RESPONDENT**

[Gov. Code §§ 11505, 11506, 11507]

TO RESPONDENT:

Enclosed is a copy of the First Amended Accusation that has been filed with the Board of Pharmacy of the Department of Consumer Affairs (Board), pursuant to section 11507 of the Government Code, and which is hereby served on you.

You previously filed a Notice of Defense with the Board of Pharmacy, pursuant to sections 11505 and 11506 of the Business and Professions Code, thereby requesting an administrative hearing to present your defense to the charges and allegations in the Accusation.

Section 11507 of the Government Code states that you are not entitled to file a further pleading in response to the First Amended Accusation unless the agency in its discretion so orders. All new charges contained in the First Amended Accusation are deemed controverted, and any objections to the First Amended Accusation may be made orally and shall be noted in the record.

BILL LOCKYER, Attorney General
of the State of California
MICHAEL R. GRANEN, State Bar No. 63350
Deputy Attorney General
California Department of Justice
300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 897-2537
Facsimile: (213) 897-2804

Attorneys for Complainant

**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the First Amended Accusation
Against:

Case No. 2835

SHERRY LYNN HARGIS
620 East North Ave.
Lompoc, CA 93436

FIRST AMENDED ACCUSATION

Pharmacy Technician License No. TCH 10330

Respondent.

Complainant alleges:

PARTIES

1. Patricia F. Harris (Complainant) brings this First Amended Accusation solely in her official capacity as the Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs.

2. On or about October 27, 1993, the Board issued Pharmacy Technician License No. TCH 10330 to Sherry Lynn Hargis (Respondent). The license was in full force and effect at all times relevant to the charges brought herein and will expire on May 31, 2007, unless renewed.

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JURISDICTION

3. This First Amended Accusation is brought before the Board the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 4300 of the Code permits the Board to take disciplinary action to suspend or revoke a license.

5. Section 4301 of the Code states that the Board shall take action against any holder of a license who is guilty of unprofessional conduct or whose license has been procured by fraud or misrepresentation or issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the following:

....

"(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or corruption, whether the act is committed in the course of relations as a licensee or otherwise, and whether the act is a felony or misdemeanor or not.

....

"(h) provides that unprofessional conduct shall include the administering to oneself, of any controlled substance, or the use of any dangerous drug or alcohol beverages to the extend or in a manner as to be dangerous or injurious to oneself, to a person holding a license under this chapter, or to any other person or to the public, or the extend that the use impairs the ability of the person to conduct with safety to the public the practice authorize by the license.

....

"(j) The violation of any of the statutes of this state or of the United States regulating controlled substances and dangerous drugs.

....

"(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision or term of this chapter or of the

///

1 applicable federal and state laws and regulations governing pharmacy, including regulations
2 established by the board.

3 "(p) Actions or conduct that would have warranted denial of a license."

4 6. Section 4327 of the Code states that any person who, while on duty, sells,
5 dispenses or compounds any drug while under the influence of any dangerous drug or alcoholic
6 beverages shall be guilty of a misdemeanor.

7 7. Section 118(b) of the Code provides that the suspension, expiration, or
8 forfeiture by operation of law of a license issued by a Board in the department, or its suspension,
9 forfeiture, or cancellation by order of the Board or by order of a court of law, or its surrender
10 without the written consent of the Board, shall not, during any period in which it may be
11 renewed, restored, reissued, or reinstated.

12 8. Health & Safety Code section 11170 states that no person shall prescribe,
13 administer, or furnish a controlled substance for herself.

14 9. Section 125.3 of the Code provides, in part, that the Board may request the
15 administrative law judge to direct any licensee found to have committed a violation of the
16 licensing act, to pay the Board a sum, not to exceed the reasonable costs of the investigation and
17 enforcement of the case.

18 10. CONTROLLED SUBSTANCES

19 A. "Cocaine," is a schedule II controlled substance as listed in Health and
20 Safety Code section 11055(a). It is an alkaloid that affects the central nervous system. Cocaine
21 produces one of the highest degrees of psychic dependence seen among recreationally abused
22 drugs that produces an addictive syndrome.

23 B. "Morphine," an Opium derivative, (generic MS Contin) is a dangerous
24 drugs as defined by section 4022 of the Code and is a Schedule II controlled substance as
25 designated by Health and Safety Code section 11055(b)(1)(M).

26 C. "Hydromorphone," is a brand of Dilaudid, an opium derivative. It is a
27 Schedule II controlled substance as designated by Health and Safety Code section 11055(b)(1)(k)

28 ///

1 and is categorized as a "dangerous drug" pursuant to Business and Professions Code section
2 4022.

3 D. "Duragesic," is brand name for fentanyl transdermal system, an opioid
4 pain medication. It is a Schedule II controlled substance as designated by Health and Safety
5 Code section 11055(c)(8) and is categorized as a "dangerous drug" pursuant to Business and
6 Professions Code section 4022.

7 **FIRST CAUSE FOR DISCIPLINE**

8 **(Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit or Corruption)**

9 11. Respondent has subjected her license to discipline, pursuant to section
10 4300 of the Code for unprofessional conduct, as defined in sections 4301, subdivisions (f), (g),
11 and (h) of the Code, as follows:

12 a. On July 13, 2004, while Respondent was employed as a pharmacy
13 technician at Lompoc District Hospital Pharmacy, Respondent was requested to undergo a urine
14 toxicology screen, following discovery that Hydromorphone and Duragesic (controlled pain
15 medications) had been taken out of the Pyxis automated machine on July 12, 2004, with no
16 destination or matching patient for the medications.

17 b. Respondent admitted to having taken two tablets of MS Contin and not
18 disclosing this fact to anyone at the time of the July 13, 2004 toxicology screen.

19 c. Respondent admitted having taken cocaine twice a day for approximately
20 three weeks through July 12, 2004.

21 d. On July 23, 2004, Respondent's July 13, 2004, urine toxicology results
22 were received. The results were positive for Cocaine, benzodiazepine, and opiates.

23 **SECOND CAUSE FOR DISCIPLINE**

24 **(Fraud, Possession and Furnishing a Controlled Substances)**

25 12. Respondent has subjected her license to discipline pursuant to section
26 4300 of the Code for unprofessional conduct as defined in section 4301, subdivision (j) of the
27 Code in conjunction with Health and Safety Code sections 11170 in that Respondent fraudulently

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1 possessed and furnished controlled substances to herself without a prescription as described
2 above in paragraph 11.

3 **THIRD CAUSE FOR DISCIPLINE**

4 **(Under the Influence of a Controlled Substance)**

5 13. Respondent has subjected her license to discipline pursuant to section
6 4300 of the Code for unprofessional conduct as defined in section 4301, subdivision (j) of the
7 Code in violation with 4327 of the Code in that Respondent prepared medications and
8 intravenous in Lompoc Hospital District Hospital for patients, while she was under the influence
9 of controlled substances, as described above in paragraph 11.

10 **FOURTH CAUSE FOR DISCIPLINE**

11 **(Actions Warranting Denial of License)**

12 14. Respondent has subjected her license to discipline pursuant to section
13 4300 of the Code as defined in section 4301, subdivision (p) of the Code for unprofessional
14 conduct by committing acts which would warrant denial of a license as described above in
15 paragraph 11.

16 **FIFTH CAUSE FOR DISCIPLINE**

17 **(Violating the Pharmacy Law)**

18 15. Respondent has subjected her license to discipline pursuant to section
19 4300 of the Code as defined in section 4301, subdivision (o) of the Code for unprofessional
20 conduct for violating Pharmacy Law as described above in paragraph 11.

21 **PRAYER**


22 WHEREFORE, Complainant requests that a hearing be held on the matters herein
23 alleged, and that following the hearing, the Board of Pharmacy issue a decision:

- 24 1. Revoking or suspending Pharmacy Technician License No. TCH 10330,
25 issued to Sherry Lynn Hargis.
- 26 2. Ordering Sherry Lynn Hargis to pay the Board of Pharmacy the reasonable
27 costs of the investigation and enforcement of this case, pursuant to Business and Professions
28 Code section 125.3;

1 3. Taking such other and further action as deemed necessary and proper.

2 DATED: 12/27/05

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PATRICIA F. HARRIS
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

LA2004602586
1/20/05 & 2/28/05 lbf
50011947.wpd
jz-amended (9/30/05)

1 BILL LOCKYER, Attorney General
of the State of California
2 MICHAEL R. GRANEN, State Bar No. 63350
Deputy Attorney General
3 California Department of Justice
300 So. Spring Street, Suite 1702
4 Los Angeles, CA 90013
Telephone: (213) 897-2537
5 Facsimile: (213) 897-2804

6 Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA
10

11 In the Matter of the First Amended Accusation
Against:

12 SHERRY LYNN HARGIS

13 Respondent.
14

Case No. 2835

REQUEST FOR DISCOVERY

[Gov. Code § 11507.6]

15
16 TO RESPONDENT:

17 Under section 11507.6 of the Government Code of the State of California, parties
18 to an administrative hearing, including the Complainant, are entitled to certain information
19 concerning the opposing party's case. A copy of the provisions of section 11507.6 of the
20 Government Code concerning such rights is included among the papers served.

21 PURSUANT TO SECTION 11507.6 OF THE GOVERNMENT CODE, YOU
22 ARE HEREBY REQUESTED TO:

- 23 1. Provide the names and addresses of witnesses to the extent known to the
24 Respondent, including, but not limited to, those intended to be called to testify at the hearing, and
25 2. Provide an opportunity for the Complainant to inspect and make a copy of any of
26 the following in the possession or custody or under control of the Respondent:

27 ///

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1 a. A statement of a person, other than the Respondent, named in the initial
2 administrative pleading, or in any additional pleading, when it is claimed that the act or
3 omission of the Respondent as to this person is the basis for the administrative
4 proceeding;

5 b. A statement pertaining to the subject matter of the proceeding made by any
6 party to another party or persons;

7 c. Statements of witnesses then proposed to be called by the Respondent and
8 of other persons having personal knowledge of the acts, omissions or events which are the
9 basis for the proceeding, not included in (a) or (b) above;

10 d. All writings, including but not limited to reports of mental, physical and
11 blood examinations and things which the Respondent now proposes to offer in evidence;

12 e. Any other writing or thing which is relevant and which would be
13 admissible in evidence, including but not limited to, any patient or hospital records
14 pertaining to the persons named in the pleading;

15 f. Investigative reports made by or on behalf of the Respondent pertaining to
16 the subject matter of the proceeding, to the extent that these reports (1) contain the names
17 and addresses of witnesses or of persons having personal knowledge of the acts,
18 omissions or events which are the basis for the proceeding, or (2) reflect matters
19 perceived by the investigator in the course of his or her investigation, or (3) contain or
20 include by attachment any statement or writing described in (a) to (e), inclusive, or
21 summary thereof.

22 For the purpose of this Request for Discovery, "statements" include written
23 statements by the person, signed, or otherwise authenticated by him or her, stenographic,
24 mechanical, electrical or other recordings, or transcripts thereof, of oral statements by the person,
25 and written reports or summaries of these oral statements.

26 ///

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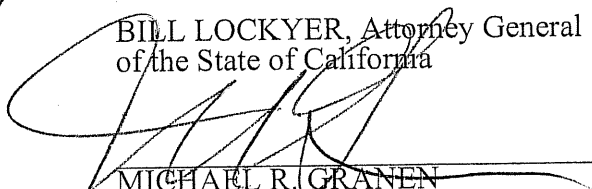
1 YOU ARE HEREBY FURTHER NOTIFIED that nothing in this Request for
2 Discovery should be deemed to authorize the inspection or copying of any writing or thing which
3 is privileged from disclosure by law or otherwise made confidential or protected as attorney's
4 work product.

5 Your response to this Request for Discovery should be directed to the undersigned
6 attorney for the Complainant at the address on the first page of this Request for Discovery **within**
7 **15 days after service** of the Amended Accusation.

8 Failure without substantial justification to comply with this Request for Discovery
9 may subject the Respondent to sanctions pursuant to sections 11507.7 and 11455.10 to 11455.30
10 of the Government Code.

11 DATED: 2/10/06

12
13 BILL LOCKYER, Attorney General
 of the State of California

14
15 
 MICHAEL R. GRANEN
 Deputy Attorney General

16 Attorneys for Complainant
17
18

COPY OF GOVERNMENT CODE SECTIONS 11507.5, 11507.6 AND 11507.7
PROVIDED PURSUANT TO GOVERNMENT CODE SECTIONS 11504 AND 11505

SECTION 11507.5: Exclusivity of discovery provisions

The provisions of Section 11507.6 provide the exclusive right to and method of discovery as to any proceeding governed by this chapter.

SECTION 11507.6: Request for discovery

After initiation of a proceeding in which a respondent or other party is entitled to a hearing on the merits, a party, upon written request made to another party, prior to the hearing and within 30 days after service by the agency of the initial pleading or within 15 days after the service of an additional pleading, is entitled to (1) obtain the names and addresses of witnesses to the extent known to the other party, including, but not limited to, those intended to be called to testify at the hearing, and (2) inspect and make a copy of any of the following in the possession or custody or under the control of the other party:

(a) A statement of a person, other than the respondent, named in the initial administrative pleading, or in any additional pleading, when it is claimed that the act or omission of the respondent as to this person is the basis for the administrative proceeding;

(b) A statement pertaining to the subject matter of the proceeding made by any party to another party or person;

(c) Statements of witnesses then proposed to be called by the party and of other persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, not included in (a) or (b) above;

(d) All writings, including, but not limited to, reports of mental, physical and blood examinations and things which the party then proposes to offer in evidence;

(e) Any other writing or thing which is relevant and which would be admissible in evidence;

(f) Investigative reports made by or on behalf of the agency or other party pertaining to the subject matter of the proceeding, to the extent that these reports (1) contain the names and addresses of witnesses or of persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, or (2) reflect matters perceived by the investigator in the course of his or her investigation, or (3) contain or include by attachment any statement or writing described in (a) to (e), inclusive, or summary thereof.

For the purpose of this section, "statements" include written statements by the person signed or otherwise authenticated by him or her, stenographic, mechanical, electrical or other recordings, or transcripts thereof, of oral statements by the person, and written reports or summaries of these oral statements.

Nothing in this section shall authorize the inspection or copying of any writing or thing which is privileged from disclosure by law or otherwise made confidential or protected as the attorney's work product.

SECTION 11507.7: Petition to compel discovery; Order; Sanctions

(a) Any party claiming the party's request for discovery pursuant to Section 11507.6 has not been complied with may serve and file with the administrative law judge a motion to compel discovery, naming as respondent the party refusing or failing to comply with Section 11507.6. The motion shall state facts showing the respondent party failed or refused to comply with Section 11507.6, a description of the matters sought to be discovered, the reason or reasons why the matter is discoverable under that section, that a reasonable and good faith attempt to contact the respondent for an informal resolution of the issue has been made, and the ground or grounds of respondent's refusal so far as known to the moving party.

(b) The motion shall be served upon respondent party and filed within 15 days after the respondent party first evidenced failure or refusal to comply with Section 11507.6 or within 30 days after request was made and the party has failed to reply to the request, or within another time provided by stipulation, whichever period is longer.

(c) The hearing on the motion to compel discovery shall be held within 15 days after the motion is made, or a later time that the administrative law judge may on the judge's own motion for good cause determine. The respondent party shall have the right to serve and file a written answer or other response to the motion before or at the time of the hearing.

(d) Where the matter sought to be discovered is under the custody or control of the respondent party and the respondent party asserts that the matter is not a discoverable matter under the provisions of Section 11507.6, or is privileged against disclosure under those provisions, the administrative law judge may order lodged with it matters provided in subdivision (b) of Section 915 of the Evidence Code and examine the matters in accordance with its provisions.

(e) The administrative law judge shall decide the case on the matters examined in camera, the papers filed by the parties, and such oral argument and additional evidence as the administrative law judge may allow.

(f) Unless otherwise stipulated by the parties, the administrative law judge shall no later than 15 days after the hearing make its order denying or granting the motion. The order shall be in writing setting forth the matters the moving party is entitled to discover under Section 11507.6. A copy of the order shall forthwith be served by mail by the administrative law judge upon the parties. Where the order grants the motion in whole or in part, the order shall not become effective until 10 days after the date the order is served. Where the order denies relief to the moving party, the order shall be effective on the date it is served.

1 BILL LOCKYER, Attorney General
of the State of California
2 MICHAEL R. GRANEN, State Bar No. 63350
Deputy Attorney General
3 California Department of Justice
300 So. Spring Street, Suite 1702
4 Los Angeles, CA 90013
Telephone: (213) 897-2537
5 Facsimile: (213) 897-2804

6 Attorneys for Complainant

7 **BEFORE THE**
BOARD OF PHARMACY
8 **DEPARTMENT OF CONSUMER AFFAIRS**
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

11 SHERRY LYNN HARGIS

12 Respondent.

Case No. 2835

OAH No. L-2006080029

NOTICE OF HEARING
[Gov. Code § 11509]

Hearing: Thursday, September 28, 2006

15
16 YOU ARE HEREBY NOTIFIED that a hearing in this matter will commence on
17 **Thursday, September 28, 2006 at 11:00 a.m.** before an Administrative Law Judge at

18 **Lompoc District Hospital**
19 **West Conference Room**
20 **508 East Hickory Ave.**
21 **Lompoc, CA 93436**

22 The hearing will be conducted before the Board of Pharmacy, Department of
23 Consumer Affairs by an Administrative Law Judge of the Office of Administrative Hearings,
upon the charges made in Accusation No. 2835 served upon you.

24 If you object to the place of hearing, you must notify the presiding officer within
25 ten (10) days after this notice is served on you. Failure to notify the presiding officer within ten
26 (10) days will deprive you of a change in the place of hearing.

27 You may be present at the hearing. You have the right to be represented by an
28 attorney at your own expense. You are not entitled to the appointment of an attorney to represent

1 you at public expense. You are entitled to represent yourself without legal counsel. You may
2 present any relevant evidence, and will be given full opportunity to cross-examine all witnesses
3 testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of
4 witnesses and the production of books, documents, or other things by applying to the Office of
5 Administrative Hearings, 320 West Fourth Street, Suite 630, Los Angeles, California 90013,
6 telephone: (213) 576-7200.

7 INTERPRETER: Pursuant to section 11435.20 of the Government Code, the
8 hearing shall be conducted in the English language. If a party or a party's witness does not
9 proficiently speak or understand the English language and before commencement of the hearing
10 requests language assistance, an agency subject to the language assistance requirement in section
11 11435.15 of the Government Code shall provide a certified interpreter or an interpreter approved
12 by the administrative law judge conducting the proceedings. The cost of providing the
13 interpreter shall be paid by the agency having jurisdiction over the matter if the administrative
14 law judge or hearing officer so directs, otherwise by the party for whom the interpreter is
15 provided. If you or a witness require the assistance of an interpreter, ample advance notice of
16 this fact should be given to the Office of Administrative Hearings so that appropriate
17 arrangements can be made.

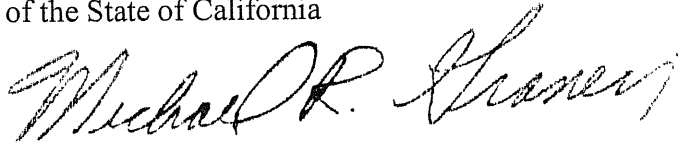
18 CONTINUANCES: Under section 11524 of the Government Code, the agency
19 may grant a continuance, but when an administrative law judge of the Office of Administrative
20 Hearings has been assigned to the hearing, no continuance may be granted except by him or her
21 or by the presiding Administrative Law Judge for good cause. When seeking a continuance, a
22 party shall apply for the continuance within ten (10) working days following the time the party
23 discovered or reasonably should have discovered the event or occurrence which establishes good
24 cause for the continuance. A continuance may be granted for good cause after the ten (10)
25 working days have lapsed only if the party seeking the continuance is not responsible for and has
26 made a good faith effort to prevent the condition or event establishing the good cause.

27 Continuances are not favored. If you need a continuance, immediately write or
28 call the Office of Administrative Hearings, 320 West Fourth Street, Suite 630, Los Angeles,

1 California 90013, telephone: (213) 576-7200.

2
3 DATED: Sept. 8, 2006

4 BILL LOCKYER, Attorney General
of the State of California

5
6 

7
8 MICHAEL R. GRANEN
Deputy Attorney General

9 Attorneys for Complainant

10
11 LA2004602586

DECLARATION OF SERVICE BY CERTIFIED MAIL AND FIRST CLASS MAIL
(Separate Mailings)

In the Matter of the Accusation Against: SHERRY LYNN HARGIS
Case No. 2835; OAH No.:L-2006080029

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On September 8, 2006, I served the attached **NOTICE OF HEARING** by placing a true copy thereof enclosed in a sealed envelope as certified mail with postage thereon fully prepaid and return receipt requested, and another true copy of the **NOTICE OF HEARING** was enclosed in a second sealed envelope as first class mail with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at 300 South Spring Street, Suite 1702, Los Angeles, CA 90013, addressed as follows:

Sherry Lynn Hargis
620 East North Ave.
Lompoc, CA 93436
Cert. #7001 0360 0003 2700 5686

Sherry Lynn Hargis
4035 Rigel Avenue
Lompoc, CA 93436
Cert. #7001 0360 0003 2700 5693

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on September 8, 2006, at Los Angeles, California.

Anna A. Carpenter
Declarant


Signature

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

OFFICIAL USE

Postage \$

Certified Fee

Return Receipt Fee (Endorsement Required)

Restricted Delivery Fee (Endorsement Required)

Total Postage & Fees

Postmark Here

Sherry Lynn Hargis
4035 Rigel Avenue
Lompoc, CA 93436
Cert. #7001 0360 0003 2700 5693
re: Notice of Hearing

Sent To

Street, Apt. No.;
or PO Box No.

City, State, ZIP+ 4

PS Form 3800, January 2001 See Reverse for Instructions

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

OFFICIAL USE

Postage \$

Certified Fee

Return Receipt Fee (Endorsement Required)

Restricted Delivery Fee (Endorsement Required)

Total Postage & Fees

Postmark

Sherry Lynn Hargis
620 East North Ave.
Lompoc, CA 93436
Cert. #7001 0360 0003 2700 5686
re: Notice of Hearing

Sent To

Street, Apt. No.;
or PO Box No.

City, State, ZIP+ 4

PS Form 3800, January 2001 See Reverse for Instructions

BILL LOCKYER
Attorney General

State of California
DEPARTMENT OF JUSTICE



RONALD REAGAN BUILDING
300 SOUTH SPRING STREET, SUITE 1702
LOS ANGELES, CA 90013

Public: (213) 897-2000
Telephone: (213) 897-2537
Facsimile: (213) 897-2804
E-mail: Michael.Granen@doj.ca.gov

September 22, 2006

VIA UPS OVERNIGHT MAIL

Sherry Lynn Hargis
147 Sedgefield Road
Rockingham, NC 28379

RE: WITHDRAWAL OF NOTICE OF DEFENSE
In the Matter of the Accusation Against:
SHERRY LYNN HARGIS
OAH No. L-2006080029
Hearing Set for September 28, 2006, Lompoc, California
Board of Pharmacy Case No. 2835

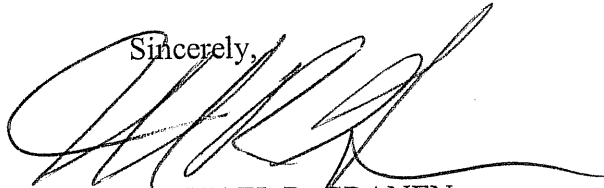
Dear Ms. Hargis:

This will confirm our telephone conversation of September 22, 2006, that you are withdrawing your notice of defense to the above entitled matter. You understand that this will result in your Pharmacy Technician License being revoked by default decision of the Board of Pharmacy. You have received the notice of hearing for September 28, 2006, in Lompoc. You stated that you are temporarily living at the address in North Carolina to which this letter is being sent. You stated that you will not attend the hearing and that you have no plans to return to California. Finally you stated that you would attempt to fax me a handwritten withdrawal of the notice of defense, however, you were not sure if you could obtain access to a fax machine.

Please sign and return the original of this letter with your signature confirming your withdrawal of your notice of defense. Please return the signed letter to me in the envelope provided. I am providing you with a copy of this letter for your record.

Thank you for your attention to this matter.

Sincerely,

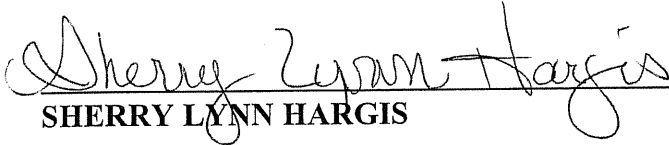


MICHAEL R. GRANEN
Deputy Attorney General

For BILL LOCKYER
Attorney General

MRG:ac
Enclosures UPS Return Envelope
60167885.wpd

I hereby withdraw my notice of defense as stated in this letter.


SHERRY LYNN HARGIS

9-27-06
DATE

UPS Next Day Air Saver⁽⁶⁾

Shipping Document

See Instructions on back. Call 1-800-PICK-UPS (800-742-5877) for additional information.

TRACKING NUMBER **A364 956 541 2**

1 SHIPMENT FROM

SHIPPER'S UPS ACCOUNT NO. **03583110LA2004602586D**

REFERENCE NUMBER

NAME **SHERY LYNN HARRIS** TELEPHONE

COMPANY **147 SEDGEFIELD RD**

STREET ADDRESS **ROCKINGHAM, NC 28379**

CITY AND STATE **ZIP CODE**

2 EXTREMELY URGENT DELIVERY TO

NAME **MICHAEL GRANEN** TELEPHONE **2138974963**

COMPANY **DEPT. OF JUSTICE**

STREET ADDRESS **300 So. Spring St, 10 N** DEPT./FLR. ☐ Residential

CITY AND STATE **LOS ANGELES, CA** ZIP CODE **90013**



UPS Next Day Air Saver⁽⁶⁾

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See Instructions on back. Call 1-800-PICK-UPS (800-742-5877) for additional information.

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COMPANY **147 SEDGEFIELD RD**

STREET ADDRESS **ROCKINGHAM, NC 28379**

CITY AND STATE **ZIP CODE**



| 3 | | WEIGHT | | DIMENSIONAL WEIGHT | | SHIPPER'S COPY | |
|---|--|--|--|---|--|---|--|
| | | ENTER "LTR" IF LETTER | | IF APPLICABLE | | 1P | |
| 4 | | NEXT DAY AIR SAVER CHARGE | | | | CHARGES | |
| 5 | | OPTIONAL SERVICES | | | | 1P | |
| | | <input type="checkbox"/> SATURDAY PICKUP See instructions. | | NEXT DAY | | | |
| | | <input type="checkbox"/> INSURED VALUE Contents are automatically protected up to \$100. For insured value over \$100, see instructions. | | AMOUNT | | | |
| | | <input type="checkbox"/> C.O.D. If C.O.D., enter amount to be collected and attach completed UPS C.O.D. tag to package. | | AMOUNT | | | |
| 6 | | ADDITIONAL HANDLING CHARGE | | <input type="checkbox"/> An Additional Handling Charge applies for certain items. See instructions. | | | |
| | | TOTAL CHARGES | | | | | |
| 7 | | METHOD OF PAYMENT | | | | | |
| | | <input type="checkbox"/> BILL SHIPPER | | <input checked="" type="checkbox"/> BILL RECEIVER | | <input type="checkbox"/> BILL THIRD PARTY | |
| | | <input type="checkbox"/> CREDIT CARD | | American Express Diner's Club Discover MasterCard Visa | | <input type="checkbox"/> CHECK | |
| 8 | | RECEIVERS / THIRD PARTY'S UPS ACCT. NO. OR MAJOR CREDIT CARD NO. | | EXPIRATION DATE | | | |
| | | THIRD PARTY'S COMPANY NAME | | | | | |
| | | STREET ADDRESS | | | | | |
| | | CITY AND STATE | | ZIP CODE | | | |
| 9 | | SHIPPER'S SIGNATURE | | DATE OF SHIPMENT | | | |
| | | X | | / / | | | |
| | | | | 020195254 10/00 W | | | |

| 3 | | WEIGHT | | DIMENSIONAL WEIGHT | | SHIPPER'S COPY | |
|---|--|--|--|---|--|---|--|
| | | ENTER "LTR" IF LETTER | | IF APPLICABLE | | 1P | |
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| 5 | | OPTIONAL SERVICES | | | | 1P | |
| | | <input type="checkbox"/> SATURDAY PICKUP See instructions. | | NEXT DAY | | | |
| | | <input type="checkbox"/> INSURED VALUE Contents are automatically protected up to \$100. For insured value over \$100, see instructions. | | AMOUNT | | | |
| | | <input type="checkbox"/> C.O.D. If C.O.D., enter amount to be collected and attach completed UPS C.O.D. tag to package. | | AMOUNT | | | |
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| | | TOTAL CHARGES | | | | | |
| 7 | | METHOD OF PAYMENT | | | | | |
| | | <input checked="" type="checkbox"/> BILL SHIPPER | | <input type="checkbox"/> BILL RECEIVER | | <input type="checkbox"/> BILL THIRD PARTY | |
| | | <input type="checkbox"/> CREDIT CARD | | American Express Diner's Club Discover MasterCard Visa | | <input type="checkbox"/> CHECK | |
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| | | CITY AND STATE | | ZIP CODE | | | |
| 9 | | SHIPPER'S SIGNATURE | | DATE OF SHIPMENT | | | |
| | | X | | / / | | | |
| | | | | 020195254 10/00 W | | | |



- ☐ Not Deliverable
☐ As Addressed
☐ Unable To Forward
☐ Insufficient Address
☒ Moved, New Address
☐ Returned to Sender
☐ No Such Street
☐ Vacant
☐ No Mail Receipts
☐ Box Closed - No Order
☐ Returned for Better Address
☐ Postage Due

DAG Granen

DEPARTMENT OF JUSTICE

Office of the Attorney General
300 South Spring Street
Los Angeles, California 90013

TO

HARG620 934363069 1505 47 02/15/06
NOTIFY SENDER OF NEW ADDRESS
HARGIS
5555 KINGTOWN RD NW
ASH NC 28420-4121

Return to
Sender
unclaimed

2-23-06
3-3-06
3-8-06